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PATENT APPLICATION
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Customer No.: 23641

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Certificate Under 37 CFR 1.8(a)

Application No.: 10/656699

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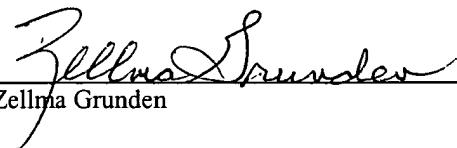
Confirmation
No.: 8589

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on February 24, 2006

Filing Date: September 4, 2003

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Zellma Grunden
Zellma Grunden

Attorney
Docket No.: 20794/82667

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First Named
Inventor: Loren R. Graber

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Group Art
Unit: 3673

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Examiner
Name: Gay Spahn

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Title: LANDSCAPING CHANNEL LINER
APPARATUS

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PRE-APPEAL BRIEF CONFERENCE REQUEST: REASONS FOR REVIEW

Sir or Madam:

Review of the Final Office Action mailed October 24, 2005, is respectfully
requested for the reasons contained herein.

All of the arguments made in support of the following remarks are found in the Response to the October 24, 2005, Office Action. This Response was mailed on February 22, 2006. Accordingly, the reference to page numbers that follow the remarks below coincide to the page numbers to the February 22, 2006, Response.

1. Claim 8 is not anticipated by Sinanan (U.S. Patent No. 5,852,895) under 35 U.S.C. § 102(b).

A. Sinanan does not teach or disclose a “landscaping channel liner.”

The claimed landscaping channel apparatus is a term of art as discussed in the specification. The Examiner cites a raised planter that is not a landscaping channel liner apparatus, nor can serve the function of the same. (See full argument on pages 11-15 of the February 22, 2006, Response.)

B. Sinanan does not teach or disclose “a selectively removable portion configured to receive a post.”

Sinanan does not teach this limitation, either explicitly or inherently. The Examiner impermissibly modifies Sinanan to create a “selectively removable portion” in order to anticipate the claim. Furthermore, Sinanan explicitly fails to even imply such a selectively removable portion because the reference does include a plurality of fence posts and none of them are disposed through the planter. Furthermore, none of the fence posts in Sinanan can be configured to be received in a “selectively removable portion” because of drainage requirements. (See full argument on pages 15-18 of the February 22, 2006, Response.)

2. Claim 1 is not obvious under Sinanan in view of Reum et al. (U.S. Patent No. 4,761,923) pursuant 35 U.S.C. § 103(a).

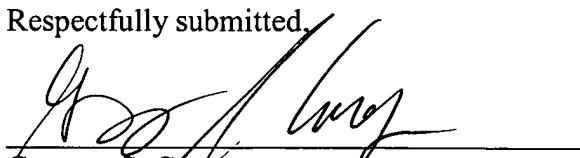
It is respectfully asserted that there is no motivation to modify Sinanan by removing its rolled upper side wall portion (63) and water hose (65) with a tubular rail (14) and connector (12) of Reum et al. “in order for the nested side walls to provide greater strength and less chance of separation and abutted seams . . .” The Examiner makes a comparative analysis

and when nothing in either Sinanan or Reum et al. indicates that replacing the heavy supporting bracket system (15) in Sinanan that holds the raised planters off the ground would be inferior to a tubular rail/connector system configured to connect dividers that rest on the ground. In other words, the Examiner argues that a connector system not designed to hold structures off the ground would be stronger than a connector system specifically designed to hold structures off the ground. There is believed no basis in the prior art for this position.

Furthermore, this modification renders the prior art invention of Sinanan unsatisfactory for its intended purpose, i.e. no longer spray water. In addition, extending portions of the floor and side walls of planter (61), as suggested by the Examiner, changes the principal operation of Sinanan. For example, extending and overlapping the flooring would prevent the drainage through the fence posts as required in Sinanan. (See full arguments to this obviousness rejection on pages 20-25 of the February 22, 2006, Response.)

To the extent necessary, a Petition for Extension of Time under 37 C.F.R. § 1.136 is hereby made. To the extent additional fees are required, please charge the fees due in connection with the filing of this paper, including extension of time fees, to deposit account no. 02-1010 (20794/82667) and please credit any excess fees to such deposit account.

Respectfully submitted,



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